

PLANNING COMMISSION
City of Rockville, Maryland

RULES OF PROCEDURE
July 12, 2023

CHAPTER I: GENERAL RULES

A. Authority

These Rules of Procedure of the Planning Commission of the City of Rockville, Maryland (the “**Rules**”) are adopted pursuant to Section 2-105(c)(1) of the Land Use Article of the Maryland Annotated Code and Section 24.04.02.d of the Rockville City Code.

B. Powers and Duties

The powers and duties of the Planning Commission (the “**Commission**”) are set forth in the Land Use Article of the Annotated Code of Maryland and the Rockville City Code, as may be amended.

C. Chair

1. *Election* – The Commission must elect a Chair from one of its appointed members to serve for a term of one calendar year, beginning on the Commission’s first meeting in January and running until the Commission’s last meeting in December. The election for the next year’s term must take place at the Commission’s first meeting in December or such other time as designated by a majority of the members. A Chair may be reelected. If a Chair resigns before their term expires, the Commission must elect a new Chair to complete the unexpired term.
2. *Role* – The Chair is the presiding officer at any meeting held by the Commission. The Chair may freely participate in debate and may call special meetings as needed. The Chair must designate a member of the Commission to serve in their absence. In the absence of such designee, a member selected by a majority of the Commission present at the meeting will preside.

D. Clerk of Commission

The Chief of Planning, as defined in Chapter 25 of the Rockville City Code (the “**Zoning Ordinance**”), will serve as the Clerk of the Commission (the “**Clerk**”). The Clerk will provide professional and clerical support to the Commission and fulfil the roles of the Clerk in these Rules and the Rockville City Code.

E. Majority Vote

Except as otherwise provided by law or in these Rules, any action of the Commission must be made by the affirmative vote of a majority of Commissioners present and voting on the motion of a Commissioner that has been properly seconded by another Commissioner. Abstentions are not counted in the total number of votes that are cast.

F. Minutes

1. *Minutes Required* – Except as otherwise provided in this section, the Commission must keep written minutes of its meetings. The Clerk will prepare minutes of each meeting of the Commission and must submit them to the Commission for approval as soon as practicable after the meeting date. The minutes must include a list of parties of record as defined in the Zoning Ordinance, a brief summary of items discussed, and an accurate recording of the motions made and actions taken. The minutes must record the outcome of each vote taken by the Commission, and where a vote is by roll call, the minutes must include the vote of each member on each question. A Commissioner voting in the minority on any question may choose to have the reason for their vote indicated in the minutes and must state such reason immediately after the vote.
2. *Approval of Minutes* – A quorum of the Commission is required for approval of written minutes, but such quorum does not need to be made up of the same Commissioners present for the action taken that is the subject of the minutes to be approved. Before a Commissioner votes on the minutes of a meeting they did not attend, the Commissioner must certify that they have read or reviewed an audio or video recording of the meeting.
3. *Audio or Video Recordings* – Audio or video recordings of a meeting of the Commission will not typically serve in lieu of written minutes. However, if a Clerk has not brought written minutes of a meeting to the Commission within six months of the meeting, the Commission may vote to authorize a full and complete audio or video recording of a meeting to serve as the official record of that meeting, if such recording is publicly available.

G. Committees

The Commission may appoint Commissioners to serve on committees for specific purposes, including, without limitation, to advise the full Commission on specific issues such as master planning, urban design, zoning, neighborhood planning, subdivision regulations, or other issues that a majority of the Commission feels are necessary for further study.

H. Meetings

1. *Frequency* – The Commission will typically hold two regular meetings each month, on the second and fourth Wednesday of the month. Worksessions are typically

scheduled for the second Wednesday of the month, as needed. Schedule adjustments are made regularly to avoid conflict with common public holidays. The Chair, in consultation with the Clerk, will determine if a regular meeting will take place based on the number of applications, review items, or other business that may come before the Commission. The Chair may cancel any regular meeting if there is no business before the Planning Commission.

2. *Time* – Unless there is a lack of a quorum, regular meetings of the Commission begin promptly at 7:00 p.m, or at such other time as determined by the Commission and properly noticed. The Chair may delay the start of a meeting at which there is a quorum by up to thirty minutes to accommodate a late Commissioner or for other good cause. It is the goal of the Commission to end its meetings by 10:00 p.m. Agendas should be planned such that no scheduled agenda items will be taken up after 10:00 p.m. The Commission must vote to take up any item on that meeting's agenda after 10:00 p.m., unless the Commission is required by law to take up the item on the day of the meeting.
3. *Location* – The Commission may hold its public meetings in person or in a partially or completely virtual mode, through video conference, teleconference, or other electronic means consistent with the requirements of the Maryland Open Meetings Act. The location and format of the public meeting will be posted on the Planning Commission website and included in any meeting notice provided by City staff.
4. *Special Meetings* – The Chair may call a special meeting of the Commission following at least 24 hours' notice, if possible, to each member of the Commission and reasonable public notice as required by the Maryland Open Meetings Act.
5. *Agenda* – The Clerk must, with the concurrence of the Chair, prepare an agenda for each Commission meeting. Development applications must be placed on the Commission's agenda within a reasonable time following staff review. Items may be placed on future agendas by the Chair or at the request of two or more Commissioners. The Chair may, in their discretion, elect to postpone an agenda item that has been publicly noticed but that has not been placed on a published agenda, unless the item is required by law to be heard at the meeting for which it is noticed. In that case, the Chair must announce the postponement at the next regular meeting of the Commission. Once an agenda item is placed on a published agenda, it may only be removed at the request of two or more Commissioners or by the vote of the Commission at the meeting for which the item is scheduled.
6. *Public Notice* – The Commission's agenda for all regular meetings must be available in City Hall and on the City's web site at least seven days before the meeting. Individual agenda items must also be noticed as required by law. Notice of a meeting must also be posted at City Hall on the day of each meeting.
7. *Briefing Materials* – The Clerk must furnish the Commission with briefing materials in an electronic format at least seven days before the next regular meeting. At the

- request of a Commissioner, the Clerk must also provide that Commissioner with printed briefing materials before the next regular meeting. Copies of staff reports for such meetings must be available to the public at the same time. For correspondence or written testimony to be included in the Commission's briefing material, it must be received by the Clerk no later than nine days before the scheduled meeting.
8. *Quorum* – Four members of the Commission constitute a quorum for the transaction of business.
 9. *Absences* – A Commissioner who does not plan to attend a scheduled meeting of the Planning Commission must notify the Clerk and the Chair at the earliest possible opportunity.
 10. *Removal of Commissioners* – Commissioners may be removed from the Planning Commission pursuant to Section 2-102 of the Land Use Article of the Annotated Code of Maryland.
 11. *Voting Order* – At the discretion of the Chair, voting will be by verbal vote, show of hands, or roll call, in which case the Chair will vote last.
 12. *General Order of Business* – The general order of business for a regular meeting is as follows but may vary from time to time at the discretion of the Chair.
 - Consent Agenda
 - Scheduled Matters (order may vary)
 - Public Hearings and Forums
 - Preliminary Subdivisions, Record and Ownership Plats
 - Site Plans
 - Recommendations to Board of Appeals or Mayor and Council (including project plans, special exceptions, and appeals)
 - Worksessions
 - Other Matters
 - Clerk Report
 - FYI and Correspondence
 - Old Business
 - New Business
 - Minutes
 - Adjournment
 13. *Rules of Order* – Except as provided in these Rules, the Commission will adhere to the latest edition of Robert's Rules of Order.
 14. *Consent Agenda* – The Clerk may place items on a consent agenda for adoption as a group with a single motion. An item may be removed from the consent agenda at the request of any Commissioner and will then be considered as a separate agenda item

by the Commission. Items subject to quasi-judicial review may not be placed on the consent agenda.

15. *Open Meetings* – Meetings of the Commission must conform to the Maryland Open Meetings Act. All Commissioners must receive training on the Act and provide their training completion certificate to the City Clerk within six months of their appointment.

CHAPTER II: PUBLIC HEARINGS

A. Scope

This Chapter applies to the Commission's conduct of public proceedings and hearings on matters subject to quasi-judicial review, including, without limitation, site plans, project plans, preliminary subdivision plans, record plats, special exceptions, variances, administrative appeals, and waivers. At the Chair's discretion, this section may also be used as a guide to conduct meetings or public hearings on other matters not subject to quasi-judicial review.

B. Role of the Chair

As the presiding officer, the Chair must conduct each public hearing in a manner that permits the development of a complete record, provides a reasonable opportunity for interested parties to be heard, and ensures an efficient hearing. The Chair may call the hearing to order, rule on preliminary matters, set reasonable time limits on testimony, limit or exclude irrelevant or duplicative evidence or testimony, take actions to maintain decorum and order, close the public hearing or record, and take any other action authorized by these Rules to conduct the public hearing, subject to applicable laws and regulations.

C. Hearing Guidelines

Without limiting the authority and discretion of the Chair under these Rules, the Commission will typically conduct a public hearing consistent with the following guidelines:

1. *Staff Presentation* – City staff presents a summary of the application as proposed as well as the important issues addressed during the staff review process and the action staff recommends the Commission take. Staff should highlight any recommended conditions of approval for the application and provide any relevant information that has become available since the staff report was issued. The Commission may ask staff questions regarding the application and staff recommendation.
2. *Board or Commission Comments* – A representative of another City board or commission may present the official position or recommendation of that Commission. A representative's presentation is typically limited to five minutes. The Commission may ask the representative pertinent questions.

3. *Applicant Testimony* – The applicant or its designated representatives should present the rationale for the application, highlight important details not touched on by staff, and whether the conditions of approval are acceptable. Applicant testimony is typically limited to fifteen minutes. If an applicant needs additional time, it should make that request to the Clerk in advance of the public hearing. The Chair may also grant the applicant additional time at the meeting. The Commission may ask the applicant team questions regarding the application and presentation.
4. *Public Testimony* – Members of the public and other parties interested in addressing the Commission may do so. A representative, speaking on behalf of an organization, including but not limited to a civic association, homeowners association, chamber of commerce, or governmental entity, is typically given five minutes to testify, while individuals and business entities are typically given three minutes. Only one person will be allowed five minutes to speak as a representative of a given organization. Speakers may cede speaking time to another speaker at the discretion of the Chair.
5. *Deliberation* – After the close of testimony, the Commission engages in discussion among its members. At this time, Commissioners may also ask questions of the applicant, interested parties, or City staff that are pertinent to the deliberation.
6. *Vote* – The Commission will conclude a public hearing with a vote on the application. At the discretion of the Chair and before a final vote, the Commission may take straw votes on certain issues. Straw votes are unofficial, and the Chair should announce them as such.

D. Evidence

A public hearing conducted under this Chapter need not conform to the rules of evidence or procedure governing judicial proceedings. The Commission may consider relevant evidence, which, based on its experience and expertise, has probative value and assists in reaching a decision. Hearsay evidence, if relevant, may be accepted. In reaching a decision, the Commission may also rely on the knowledge, experience, and observation of its members and facts in common knowledge.

E. Testimony Under Oath

Any person providing testimony to the Commission must provide their name and address or organizational affiliation for the record and swear or affirm that they are testifying truthfully. The Chair or the Clerk may administer the oath or affirmation, or a person may take the oath or affirmation in writing as part of the process of signing up to testify or submitting written testimony.

F. Cross Examination

The Chair, upon request, must permit any party of record, as defined in the Zoning Ordinance, (a “**Party of Record**”) to cross-examine a witness at the conclusion of that

witness' testimony. The questions on cross-examination must (a) be brief, (b) pertain only to the witness' testimony, (c) be interrogatory and not argumentative, and (d) not be preceded by statement. The Chair may place additional terms and conditions on cross-examination to ensure the orderly administration of the hearing and may reject any question as out of order or objectionable.

G. Decision

The Commission may approve or deny an application or other quasi-judicial matter over which it has final administrative authority. Failure to receive a majority vote for approval constitutes denial; failure to receive a majority vote for denial does not, however, constitute approval. An approved application may be subject to conditions the Commission deems necessary, pursuant to applicable law. Any member of the Commission who was absent during any portion of the public hearing or who was appointed after the hearing commenced may only vote if the member certifies on the record of the proceedings that the member reviewed the submitted evidence and listened to or watched a recording of the portion of the hearing for which the member was not present.

H. Notice of Decision

The Commission must provide written notice of an approval or denial of an application or other quasi-judicial matter as provided by law.

I. Recommendation

On those items which the Commission acts in an advisory capacity to another decision-making body, the Commission's recommendation will be sent to the appropriate decision-making body in the form of a memo from the Commission. The memo will report the vote of the Commission, any conditions the Commission would recommend for the approval of the application, and any discussion that the Commission deems important to explain the application or the vote. After the Commission votes on a recommendation at a public meeting, the Clerk will draft the memo, which must be signed by the Chair before transmittal to the appropriate decision-making body. At the request of any Commissioner, a draft memo must be brought back to the Commission at a public meeting for its approval before it is transmitted.

J. Withdrawal

An applicant may withdraw an application over which the Commission has final authority at any time before the Commission takes a final vote on the application.

K. Postponement and Continuance

1. *Postponement* – Before the start of a public hearing, the Chair may postpone the public hearing on any matter covered by these Rules at the Chair's discretion or at the request of

any other Commissioner, City Staff, an applicant, or an interested party, unless the hearing may not be postponed by law.

2. *Continuance* – At any time after convening a public hearing, the Commission may vote to recess the hearing and continue it to another date, place, and time, unless the Commission is required by law to take immediate action on the item. Any Commissioner may move to continue a hearing on the Commissioner's own initiative or upon the request of the City staff, the applicant, or any other interested person. If the date, time, and place of a continued hearing is announced on the record, no further notice is required.
3. *Public Notice of a Continued Hearing* – If the date, time and place of a continued hearing is not announced on the record at the public hearing when the continuance is granted, notice of the date, time and place of the rescheduled hearing must be provided in the same manner as the original notice of hearing was provided.

L. Public Ethics and *Ex Parte* Communications

1. *Public Ethics* – Commissioners must comply with Chapter 16 of the Rockville City Code, regarding public ethics.
2. *Ex Parte Communications* – Commissioners must not engage in *ex parte* communications with any person on any matter subject to quasi-judicial review that is pending before the Commission. If a Commissioner receives unsolicited communications about a pending matter outside of a public hearing, the member must disclose and describe the communications to the rest of the Commission at the earliest opportunity during the Commission's proceedings on the matter. This subsection does not apply to a Commissioner's communications with any member of City staff, the City's legal counsel, or another Commissioner, subject to the requirements of the Maryland Open Meetings Act.

M. On-Site Inspection

Commissioners are encouraged to visit the sites of applications that are on the agenda. Applicants should facilitate access to the degree possible; however, Commissions must avoid any *ex parte* communications with the applicant or any other party regarding the pending application.

N. Reconsideration

1. *Petition to Reconsider* – A Party of Record may file a petition to reconsider a final administrative decision of the Commission with the Clerk no later than seven days after the date the original decision was issued in writing by the Clerk. Upon receipt, the Clerk must promptly transmit the petition to the Commission.
2. *Form of Petition* – A petition must be made in writing and must state fully all grounds for reconsideration including mistake of fact or law, inadvertence, surprise, fraud, or

other good cause. The filing of a request to reconsider does not toll the period for seeking judicial review of the Planning Commission's decision allowed under the Maryland Rules.

3. *Notice of Petition* – The party submitting a petition for reconsideration (the “**Petitioner**”) must also give written notice of the petition to all other parties of record in the matter on the same day it files the petition with the Clerk. Within five days of filing the petition with the Clerk, the Petitioner must submit to the Clerk a copy of the notice and a certification that the notice was provided to all Parties of Record.
4. *Response from Party of Record* – A Party of Record who has received notice of a petition for reconsideration may file a written response with the Clerk within seven days of the date of the notice provided by the Petitioner. Upon receipt, the Clerk must promptly transmit each response to the Commission.
5. *Consideration of Petition* – The Chair must schedule a petition for reconsideration for the Commission's consideration as soon as practicable after the petition for reconsideration is filed. The Commission's consideration of a petition for reconsideration: (a) does not require notice to the public or Parties of Record other than by publication as part of the Commission's agenda; and (b) may occur without the appearance or testimony of any Parties of Record. The Commission may, however, question City staff or any Party of Record present to clarify points raised in the petition.
6. *Motion to Reconsider* – Any Commissioner in the majority of a decision subject to a petition for reconsideration may move to reconsider the decision based on the petition. Any Commissioner in the majority of a decision may also move to reconsider a decision without a petition for reconsideration, provided that such motion states the grounds for reconsideration and is made no later than the Commission's next meeting following the date when the original decision was issued in writing by the Clerk. In considering a motion to reconsider, no public hearing is required. The Commission may grant a motion for reconsideration if it finds mistake of fact or law, inadvertence, surprise, fraud, or other good cause, and must state its reasons for such approval on the record. A motion to reconsider a decision passes if it receives the vote of a majority of the Commissioners present and voting and each Commissioner voting on the motion participated in the decision to be reconsidered or certifies on the record that they have read or reviewed the record of the proceeding.
7. *Notice of Public Hearing on Matters Reconsidered* – If the Commission approves a motion to reconsider a decision, the Chair must promptly schedule a public hearing on the matters to be reconsidered. At least fifteen days before the hearing, the Clerk must notify all Parties of Record of: (a) the Commission's decision to reconsider its decision; (b) the date of the hearing; and (c) a reasonable summary of the reasons for reconsideration.

8. *Effect of Reconsideration* – The Commission’s approval of a motion to reconsider a decision voids the original decision. If no Commissioner moves to reconsider a decision subject to a petition for reconsideration, or if the Commission denies a motion to reconsider, the original decision remains in full force and effect.
9. *Hearing on Matters Reconsidered* – If the Commission approves a motion to reconsider, it must conduct a hearing on the matters reconsidered. The scope of the hearing must be limited to the reason the Commission cited for reconsideration of the decision and any other issues that the Commission deems to be relevant.
10. *Effect of the Commission’s Decision After Hearing* – If after a hearing, the Commission determines that it will not change its original decision, the Clerk must reissue the original decision. If after a hearing, the Commission determines that it will change the original decision, the original decision must be revised based on such change and reissued. In either case, the appeal period shall run from the date of the reissuance.

O. Judicial Review

Unless another method of review is provided for by law, any Party of Record aggrieved by a final administrative decision of the Commission may seek judicial review of the decision with the Circuit Court of Montgomery County pursuant to Title 7, Chapter 200 of the Maryland Rules.

CHAPTER III: MISCELLANEOUS

A. Amending the Rules of Procedure

These Rules may be amended at any meeting of the Commission by the affirmative vote of at least four Commissioners, provided that notice of the proposed amendment is given to each member in writing at least two weeks before said meeting.

B. Time

In computing any period of time under these Rules, the day on which that period of time begins is not included.

C. Rules Not Jurisdictional

These Rules do not constitute jurisdictional requirements and do not confer rights or impose obligations not otherwise conferred or imposed by law. Failure of the Commission, its staff, or any party to comply with any provision of these Rules shall not invalidate any otherwise valid decision or action of the Commission.

D. Severability

The provisions of these Rules are severable, and if any court of competent jurisdiction holds any of their provisions invalid, the decision of such court shall not affect or impair any of the remaining provisions.

E. Conflict

Whenever any conflict occurs between these Rules, the Annotated Code of Maryland and the Rockville City Code, the Annotated Code of Maryland and the Rockville City Code shall prevail.

F. Effective Date

These Rules shall be effective after adoption by a majority of the full Commission and filing with the City Clerk and the Secretary of Planning for the State of Maryland.

Adopted June 1, 1988

Section III Amended September 26, 1990

Amended March 1997

Amended February 24, 2010

Amended July 14, 2010

Amended April 13, 2011

Amended July 27, 2011

Amended March 20, 2013

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